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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Danny Friddle,

10 Plaintiff,

11 v.

12 CoreCivic, et al.,

13 Defendants.
14

No. CV-23-02414-PHX-KML (ESW)

ORDER

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16 In accordance with its continuing obligation to screen civil rights complaints
17 brought by prisoners, the Court has reviewed Plaintiff's proposed Second Amended
18 Complaint (Doc. 15).¹ 28 U.S.C. § 1915A(a). The Court previously dismissed Counts Six
19 through Eleven of the First Amended Complaint (Doc. 8) without prejudice for failure to
20 state a claim (Doc. 9 at 6-13). For the reasons explained herein, the Court will order
21 Defendants to answer the Second Amended Complaint.

22 **I. DISCUSSION**

23 In its July 9, 2024 Screening Order, the Court found that Counts Six, Seven, and
24 Eight failed to state a claim as it was "unclear which Defendants are responsible for the

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26 ¹ Although the Second Amended Complaint was docketed on September 16, 2024,
27 the certificate of service indicates that it was mailed on September 4, 2024. (Doc. 15 at 22.)
28 Under the prison mailbox rule, a pro se prisoner's filing is deemed timely if delivered to
prison authorities for mailing by the deadline. Accordingly, the Court deems September 4,
2024 the Second Amended Complaint's filing date. *See Houston v. Lack*, 487 U.S. 266,
276 (1988).

1 food, kitchen, and commissary policies and practices Plaintiff challenges.” (Doc. 9 at 9.)
2 Similarly, the Court found that Counts Nine, Ten, and Eleven of the First Amended
3 Complaint failed to state a claim, explaining that “to the extent Plaintiff claims his books
4 were rejected or confiscated without notice and an opportunity to appeal, Plaintiff again
5 fails to identify the specific Defendants responsible for these actions.” (Doc. 9 at 12.) The
6 Second Amended Complaint adds allegations indicating such responsibilities. (Doc. 15 at
7 11-21.)

8 Taken together, the Court finds that Plaintiff’s allegations in Counts Six through
9 Eleven of the Second Amended Complaint satisfy the “low threshold for proceeding past
10 the screening stage.” *Wilhelm v. Rotman*, 680 F.3d 1113, 1123 (9th Cir. 2012); *see also*
11 *Teahan v. Wilhelm*, 481 F.Supp.2d 1115, 1119 (S.D. Cal. 2007) (noting that the “sua sponte
12 screening process” under Section 1915A is “cumulative of, not a substitute for, any
13 subsequent [motion to dismiss] that the defendant[s] may choose to bring”). The Court
14 will require Defendants to answer Counts Six through Eleven of the Second Amended
15 Complaint as set forth below. For the reasons explained in the Court’s prior Screening
16 Order (Doc. 9), the Court will also require Defendants Thomas, Wead, Powell, Bradley,
17 Lopez, and Newell to answer Counts One through Five of the Second Amended Complaint
18 in their individual and official capacities.

19 Accordingly,

20 **IT IS ORDERED** that Defendants Thomas, Wead, Powell, Bradley, Lopez, and
21 Newell must answer Counts One through Five of the Second Amended Complaint (Doc.
22 15) in their individual and official capacities as ordered in the prior Screening Order (Doc.
23 9).

24 **IT IS FURTHER ORDERED** that within fourteen days from the date of this
25 Order, Defendants Thomas, Wead, Powell, Bradley, Lopez, and Newell shall file their
26 answers or otherwise respond to the Second Amended Complaint by appropriate motion

27 **IT IS FURTHER ORDERED** that Defendants Wead, Powell, Lopez, Newell,
28 CoreCivic, Trinity Services Group, Pitz, and Does 1-10 must answer Count Six of the

1 Second Amended Complaint.

2 **IT IS FURTHER ORDERED** that Defendants Thomas, Wead, Powell, Lopez,
3 Newell, Pitz, Bechler, Trinity Services Group, CoreCivic, and Does 1-10 must answer
4 Count Seven of the Second Amended Complaint.

5 **IT IS FURTHER ORDERED** that Defendants Wead, Powell, Lopez, Newell,
6 Montanez, and Does 16-20 must answer Count Eight of the Second Amended Complaint.

7 **IT IS FURTHER ORDERED** that Defendants Wead, Robertson, Carrier, Thomas,
8 Bradley, and Does 11-15 must answer Count Nine of the Second Amended Complaint.

9 **IT IS FURTHER ORDERED** that Defendants Wead, Bradley, Robertson, Carrier,
10 and Does 11-15 must answer Count Ten of the Second Amended Complaint.

11 **IT IS FURTHER ORDERED** that Defendants Thomas, Bradley, Wead,
12 Robertson, Carrier, and Does 11-15 must answer Count Eleven of the Second Amended
13 Complaint.

14 **IT IS FURTHER ORDERED** that no later than **sixty days** from the date of this
15 Order, Plaintiff must file a notice of substitution that substitutes the actual names for the
16 Doe Defendants. The Court may dismiss the Doe Defendants without prejudice if Plaintiff
17 fails to timely file a notice of substitution. Service shall be completed within **forty-five**
18 **days** from the date that the Doe Defendants are substituted with their actual names.

19 **IT IS FURTHER ORDERED** that:

20 1. The Clerk of Court shall send Plaintiff a service packet including the Second
21 Amended Complaint, this Order, and a copy of the Marshal's Process Receipt & Return
22 form (USM-285) and Notice of Lawsuit & Request for Waiver of Service of Summons
23 form for Defendants Carrier, Robertson, Trinity Services Group, Pitz, Montanez, and
24 Bechler.

25 2. Plaintiff shall complete² and return the service packet to the Clerk of Court within

26 _____
27 ² If a Defendant is an officer or employee of the Arizona Department of Corrections,
28 Rehabilitation & Reentry ("ADCRR"), Plaintiff shall list the address of the specific
institution where the officer or employee works. Service cannot be effected on an officer
or employee at the Central Office of the ADCRR unless the officer or employee works

1 21 days of the date of filing of this Order. The United States Marshal will not provide
2 service of process if Plaintiff fails to comply with this Order.

3 3. If Plaintiff does not either obtain a waiver of service of the summons or complete
4 service of the Summons and Second Amended Complaint on a Defendant within 90 days
5 of the filing of the Second Amended Complaint or within 60 days of the filing of this Order,
6 whichever is later, the action may be dismissed as to that Defendant. Fed. R. Civ. P. 4(m);
7 LRCiv 16.2(b)(2)(B)(i).

8 4. The United States Marshal shall retain the Summons, a copy of the Second
9 Amended Complaint, and a copy of this Order for future use.

10 5. The United States Marshal must notify Defendants Carrier, Robertson, Trinity
11 Services Group, Pitz, Montanez, and Bechler of the commencement of this action and
12 request waiver of service of the summons pursuant to Fed. R. Civ. P. 4(d). The notice to
13 Defendants must include a copy of this Order. The Marshal must immediately file signed
14 waivers of service of the summons. If a waiver of service of summons is returned as
15 undeliverable or is not returned by a Defendant within 30 days from the date the request
16 for waiver was sent by the Marshal, the Marshal must:

17 (a) Personally serve copies of the Summons, Second Amended Complaint,
18 and this Order, upon Defendants pursuant to Fed. R. Civ. P. 4(e)(2); and

19 (b) Within 10 days after personal service is effected, file the return of service
20 for Defendants, along with evidence of the attempt to secure a waiver of service of the
21 summons and of the costs subsequently incurred in effecting service upon Defendants. The
22 costs of service must be enumerated on the return of service form (USM-285) and must
23 include the costs incurred by the Marshal for photocopying additional copies of the
24 Summons, Second Amended Complaint, or this Order and for preparing new process
25 receipt and return forms (USM-285), if required. Costs of service will be taxed against

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27 there.
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1 the personally served Defendant pursuant to Fed. R. Civ. P. 4(d)(2), unless otherwise
2 ordered by the Court.

3 **6. A Defendant who agrees to waive service of the Summons and Second**
4 **Amended Complaint must return the signed waiver forms to the United States**
5 **Marshal, not the Plaintiff.**

6 7. Defendants must answer the Second Amended Complaint or otherwise respond
7 by appropriate motion within the time provided by the applicable provisions of Fed. R.
8 Civ. P. 12(a).

9 8. Any answer or response must state the specific Defendant by name on whose
10 behalf it is filed. The Court may strike any answer, response, or other motion or paper that
11 does not identify the specific Defendant by name on whose behalf it is filed.

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13 Dated this 9th day of April, 2025.

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16 Eileen S. Willett
17 United States Magistrate Judge
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